

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

LAMONT O. DOUGLAS,  
Plaintiff,

v.

GENE JOHNSON, et al.,  
Defendants.

) Civil Action No. 7:11-cv-00238  
)  
)

) MEMORANDUM OPINION  
)

) By: Hon. Jackson L. Kiser  
) Senior United States District Judge

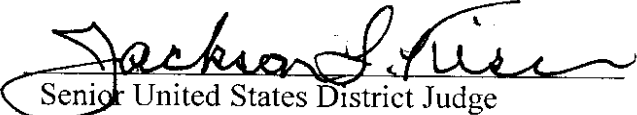
Lamont O. Douglas, a Virginia inmate proceeding pro se, filed a motion for leave to proceed in forma pauperis in order to file in the future a civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff alleges that defendants, officials and officers of the Virginia Department of Corrections, violated his Fourth Amendment right to privacy, Eighth Amendment right to be free from cruel and unusual punishment, and Fourteenth Amendment right to not be discriminated against.

Plaintiff seeks leave to proceed in forma pauperis without a complaint. Plaintiff has the original draft of his complaint but does not want to mail it to the court through the prison mailing system without first receiving permission to proceed in forma pauperis. "A civil action is commenced by filing a complaint with the court[.]" not merely a motion to proceed in forma pauperis because of plaintiff's unwillingness to use the mail system. Fed. R. Civ. P. 3. Without a complaint, no civil action exists. Furthermore, I must also screen the complaint to evaluate whether plaintiff may proceed in forma pauperis, which requires the plaintiff to actually file his complaint. See 28 U.S.C. § 1915(e). To the extent a court may construe the motion as a complaint, it clearly fails to state a claim upon which relief may be granted and is subject to dismissal without prejudice. Accordingly, I find that plaintiff may not proceed in forma pauperis because he did not provide adequate inmate trust account records required by 28 U.S.C.

§ 1915(a)(2), and the action is stricken from the active docket because no complaint was filed.<sup>1</sup> I will consider plaintiff's complaint in a new and separate action at the time he decides to file it.

The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the plaintiff.

ENTER: This 24<sup>th</sup> day of May, 2011.

  
Senior United States District Judge

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<sup>1</sup>If the motion was construed as a complaint, I would alternatively deny leave to proceed in forma pauperis and dismiss the construed complaint without prejudice for failing to state a claim upon which relief may be granted, pursuant to 28 U.S.C. § 1915A(b)(1).